

EXHIBIT “G”

In The Matter Of:

*MALIBU TEXTILES, INC., v.
CAROL ANDERSON, INC.*

*JOSEPH DICKINSON
February 5, 2008*

*URBAN COURT REPORTING
25 West 45th Street - Suite 900
New York, NY 10036
PH: 212-661-8260 / FAX: 212-692-9171*

DICKINSON, JOSEPH - Vol. 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

MALIBU TEXTILES, INC.,

Plaintiff,

-against- Docket No. 07-cv-4780 (SAS)

CAROL ANDERSON, INC. and CABI, LLC,

Defendants.

-----x

February 5, 2008

11:20 a.m.

Deposition of JOSEPH DICKINSON, taken by
Defendants, pursuant to Subpoena, at the offices
of Lazarus & Lazarus, P.C., 240 Madison Avenue,
New York, New York, before ERIC J. FINZ, a
Shorthand Reporter and Notary Public within and
for the State of New York.

Page 42

1 JOSEPH DICKINSON
 12:20:13 2 statement of September 20, 2005?
 12:20:17 3 A. I don't recall. You know,
 12:20:24 4 my sense would be that this was before,
 12:20:26 5 but I don't want to say 100 percent
 12:20:28 6 that I recall. Unfortunately it's not
 12:20:30 7 dated.
 12:20:32 8 Q. When you say --
 12:20:33 9 A. I would say that, you know
 12:20:35 10 what, I need to say I don't know,
 12:20:37 11 because I really don't recall.
 12:20:39 12 Q. When you received the
 12:20:41 13 subpoena, did you recall giving the
 12:20:46 14 September 20th statement that is now
 12:20:52 15 Defendants' B, F 120?
 12:20:54 16 A. Do I recall when I received
 12:20:55 17 the subpoena, do I recall giving this
 12:20:58 18 statement, no.
 12:20:59 19 Q. Prior to today, and me
 12:21:02 20 presenting it to you, had you -- when
 12:21:05 21 is the last time you saw your statement
 12:21:08 22 of September 20, '05?
 12:21:10 23 A. The day I signed it,
 12:21:12 24 September 20, 2005. I haven't seen it
 12:21:15 25 since. I don't recall seeing it since.

Page 43

1 JOSEPH DICKINSON
 12:21:16 2 Q. Now that you see it, and
 12:21:19 3 see that it's dated September 20, 2005,
 12:21:26 4 does that refresh your recollection in
 12:21:33 5 any fashion as to whether there is a
 12:21:36 6 separate file maintained by Paris Lace
 12:21:40 7 or yourself that concerns itself with
 12:21:44 8 your September 20, '05 transmittal?
 12:21:49 9 A. It's not -- no, I have no
 12:21:53 10 file, you know. Of course when I
 12:21:57 11 looked at it today it refreshed my
 12:22:00 12 memory of giving a statement. I
 12:22:02 13 remember -- I remember trying to
 12:22:04 14 describe this series of events back in
 12:22:07 15 2005. But it's not refreshing my
 12:22:09 16 memory with regard to any file. If
 12:22:11 17 that's your question.
 12:22:31 18 Q. When you gave your
 12:22:33 19 statement of September 20, 2005, was
 12:22:36 20 Linfalls Knitting Mills Ltd. still an
 12:22:40 21 operating company?
 12:22:41 22 A. I don't think so, no.
 12:22:46 23 Q. If I told you that records
 12:22:53 24 from the Secretary of State in New
 12:22:58 25 Jersey indicate that sometime in

Page 44

1 JOSEPH DICKINSON
 12:23:02 2 September of 2004 it became an
 12:23:07 3 inactive, dissolved company, would that
 12:23:09 4 refresh your recollection as to when it
 12:23:12 5 stopped being active?
 12:23:13 6 A. Sounds about right, yes.
 12:23:15 7 Q. Now, when -- withdrawn.
 12:23:19 8 What was the business of
 12:23:21 9 Linfalls?
 12:23:22 10 A. Knitting mill.
 12:23:24 11 Q. Okay. And how, if at all,
 12:23:29 12 was the business of Linfalls distinct
 12:23:32 13 from, in terms of what they did, from
 12:23:35 14 what Paris Lace did?
 12:23:37 15 A. They were a direct
 12:23:40 16 competitor, a direct competitor and yet
 12:23:43 17 a friendly competitor of Paris Lace.
 12:23:48 18 We engaged in the same business.
 12:23:50 19 Q. And other than in
 12:23:54 20 connection with Paris -- withdrawn.
 12:23:57 21 Other than in connection
 12:23:58 22 with pattern or style 1967, had Paris
 12:24:06 23 Lace and Linfalls ever conducted
 12:24:09 24 business with one another?
 12:24:11 25 A. Not business typical to

Page 45

1 JOSEPH DICKINSON
 12:24:17 2 this. Whatever business we had is more
 12:24:21 3 if we needed help, if I needed some raw
 12:24:24 4 material or he needed some raw
 12:24:26 5 material. We were friendly
 12:24:27 6 competitors. Meaning that if Linfalls
 12:24:29 7 had a question or a problem with
 12:24:30 8 something, I would help them, and vice
 12:24:33 9 versa. It was just a good friendly
 12:24:41 10 competitors, competitors yet helping
 12:24:42 11 each other. We had never engaged in
 12:24:45 12 any subcontracting, if you will. This
 12:24:47 13 was our first attempt at that.
 12:24:50 14 Q. At any time prior to 19 --
 12:24:50 15 withdrawn.
 12:25:02 16 Have you at any time had any
 12:25:05 17 ownership interest in Linfalls Knitting
 12:25:10 18 Mills Limited?
 12:25:13 19 A. No.
 12:25:13 20 Q. Has any one of the present
 12:25:16 21 equity owners of Paris Lace, Inc. at
 12:25:23 22 any time owned any interest, to your
 12:25:26 23 knowledge, in Linfalls Knitting Mills
 12:25:30 24 Limited?
 12:25:31 25 A. No.

Page 50

1 JOSEPH DICKINSON
 12:30:32 2 trying to illustrate the whole series
 12:30:36 3 of events.
 12:30:38 4 If your question is did
 12:30:39 5 someone tell me, he didn't have to tell
 12:30:42 6 me, again, I've known those guys for
 12:30:45 7 many, many years.
 12:30:47 8 Q. And Mr. Mueller is
 12:30:50 9 deceased?
 12:30:50 10 A. Yes.
 12:30:50 11 Q. How about Mr. Fischbach?
 12:30:53 12 A. He's still alive.
 12:30:54 13 Q. Was Mr. Mueller alive in
 12:30:59 14 September of 2005?
 12:31:01 16 Q. The next statement is
 12:31:08 17 "Malibu was a customer of Linfalls and
 12:31:13 18 of Paris Lace."
 12:31:15 19 A. Right.
 12:31:16 20 Q. When you gave this
 12:31:17 21 statement in September of 2005, did you
 12:31:21 22 have personal knowledge of whether
 12:31:27 23 Malibu was a customer of Linfalls and
 12:31:30 24 of Paris Lace?
 12:31:31 25 A. Yes, I had knowledge of

Page 51

1 JOSEPH DICKINSON
 12:31:32 2 that.
 12:31:33 3 Q. And what was the basis of
 12:31:35 4 your knowledge?
 12:31:36 5 A. Just once again, we're, you
 12:31:40 6 know, it's a small business, they are
 12:31:42 7 located in Clifton, we are friendly
 12:31:45 8 competitors. And we have some -- we
 12:31:49 9 had some, I should say, some sense and
 12:31:51 10 some understanding of our relationship
 12:31:54 11 with Malibu. So I was aware of the
 12:31:57 12 fact that Linfalls had done work and
 12:32:01 13 may have been doing work at that time
 12:32:04 14 with Malibu, yeah.
 12:32:05 15 Q. Was Malibu -- withdrawn.
 12:32:10 16 How long was Linfalls in
 12:32:16 17 business for, do you know?
 12:32:17 18 A. No, I don't know, I'm not
 12:32:19 19 sure.
 12:32:19 20 Q. If I told you that the
 12:32:22 21 records of the Secretary of State in
 12:32:23 22 New Jersey show that it was
 12:32:24 23 incorporated in 1976, would that in any
 12:32:27 24 manner or form refresh your
 12:32:29 25 recollection?

Page 52

1 JOSEPH DICKINSON
 12:32:29 2 A. That sounds correct. It
 12:32:33 3 sounds about right.
 12:32:34 4 Q. Now, I believe you
 12:32:35 5 testified -- withdrawn.
 12:32:37 6 In 1976, did Linfalls do
 12:32:43 7 business with Malibu?
 12:32:45 8 A. I don't know, but I wouldn't
 12:32:48 9 think so.
 12:32:49 10 MS. WOLFF: 1976 you just
 12:32:51 11 said?
 12:32:52 12 MR. LAZARUS: Yes, I did.
 12:32:53 13 MS. WOLFF: Okay.
 12:32:53 14 Q. For any year since 1976,
 12:33:01 16 can you tell me, please, which years
 12:33:01 16 Malibu was a customer of Linfalls?
 12:33:04 17 A. I wouldn't know.
 12:33:06 18 Q. When you made the statement
 12:33:09 19 in your statement of September 20,
 12:33:15 20 2005, Bates stamped P 126 and marked
 12:33:19 21 Exhibit D, what years did you intend to
 12:33:23 22 refer to when you said Malibu was a
 12:33:27 23 customer of Linfalls and of Paris Lace?
 12:33:30 24 A. The statement was given in
 12:33:35 25 2005. I merely was illustrating a

Page 53

1 JOSEPH DICKINSON
 12:33:39 2 history of my relationship with
 12:33:43 3 Linfalls and Malibu Textiles. The
 12:33:48 4 purpose of making that statement was
 12:33:50 5 just to indicate that Linfalls was also
 12:33:55 6 somebody or a company that worked with
 12:33:57 7 Malibu Textiles. The purpose of that
 12:33:59 8 is just to, once again, to illustrate
 12:34:02 9 how we came about designing and
 12:34:05 10 developing style 1967.
 12:34:09 11 And I felt it was important
 12:34:11 12 because when we decide to go into this
 12:34:14 13 project, we needed to bring Linfalls
 12:34:17 14 in. Linfalls was already doing
 12:34:20 15 business with Malibu, there was some
 12:34:23 16 comfort level there. And so that's the
 12:34:26 17 purpose of giving that. I wasn't
 12:34:28 18 trying to get specific, I was merely
 12:34:31 19 saying that Linfalls is a known
 12:34:36 20 knitting mill and they have done
 12:34:37 21 business with Malibu from time to time.
 12:34:41 22 But that's -- that was really the
 12:34:45 23 purpose of making that statement.
 12:34:46 24 Q. You make the statement that
 12:34:48 25 Malibu was a customer of Linfalls and

Page 66

1 JOSEPH DICKINSON
:49:46 2 you know, again, I can't -- I can only
:49:51 3 say that when the discussion took place
:49:55 4 to knit a -- that type of fabric, the
:49:59 5 series of events were as follows: The
:50:02 6 first thing was to sit, I sat with
:50:05 7 Ralph Mueller to gauge his interest in
:50:09 8 doing some development work. And we
:50:13 9 went through the particulars about who
:50:16 10 would be responsible for the cost and
:50:19 11 so on, and we settled that part of it.
:50:22 12 And at that time Ralph contacted and
:50:26 13 had a sketch submitted.
:50:29 14 So this paragraph, it's not
:50:34 15 perfect the way it was written. But there
:50:40 16 was no sketch so to speak. It was just
:50:43 17 an idea. An idea to make a lycra,
:50:50 18 complicated, more involved pattern at
:50:53 19 that time. So, again, this paragraph
:50:57 20 is a bit, you know, confusing as to the
:51:00 21 order of things.
:51:02 22 Q. Well, is it wrong?
:51:04 23 A. It's not -- I wouldn't say
:51:08 24 it's wrong. It says here Malibu
:51:11 25 approached Paris Lace to obtain a

Page 67

1 JOSEPH DICKINSON
12:51:13 2 floral pattern. Well, again, that's an
12:51:16 3 oversimplification, but the reality of
12:51:19 4 it is that 99 percent of every lace
12:51:22 5 pattern is a floral pattern. I'm just
12:51:24 6 trying to sum this up the best way I
12:51:26 7 can. I omitted the fact that I could
12:51:28 8 have embellished on that and a floral
12:51:32 9 pattern with lycra, with 42 bars, which
12:51:35 10 is important to us, with the particular
12:51:37 11 ground. I could have done that. I
12:51:40 12 didn't.
12:51:40 13 But I did say because of the
12:51:42 14 intricacy of the pattern, that we
12:51:44 15 subcontracted Linfalls to obtain and
12:51:48 16 knit the design. To obtain means to
12:51:50 17 obtain the sketch, we would do the
12:51:54 18 development, once the sketch is
12:51:56 19 approved we make this draft, which is
12:51:58 20 that big piece of paper we had out on
12:52:01 21 the table, and in fact to knit it.
12:52:03 22 Because we did not have the capability.
12:52:05 23 So it's accurate, it could have been
12:52:08 24 worded slightly better. But it is what
12:52:10 25 it is.

Page 68

1 JOSEPH DICKINSON
12:52:10 2 Q. It says that in 1998 Malibu
12:52:14 3 approached Paris Lace to obtain a
12:52:18 4 floral pattern.
12:52:19 5 A. Um-hum.
12:52:20 6 Q. Correct?
12:52:20 7 A. Yup.
12:52:21 8 MS. WOLFF: We've gone over.
12:52:23 9 You've asked him that same question
12:52:24 10 five times.
12:52:25 11 MR. LAZARUS: Okay.
12:52:26 12 MS. WOLFF: And he answered
12:52:28 13 you.
12:52:28 14 MR. LAZARUS: I understand
12:52:29 15 your frustration.
12:52:30 16 Q. Was Paris Lace --
12:52:35 17 was Paris Lace approached by Malibu to
12:52:38 18 create a floral pattern or to obtain a
12:52:41 19 floral pattern?
12:52:42 20 A. It could have read create.
12:52:46 21 Q. Okay. Which was it?
12:52:48 22 A. Obtain, create. You know.
12:52:50 23 Q. Well, you wrote obtain.
12:52:52 24 A. Okay.
12:52:52 25 Q. Did you recall at the time

Page 69

1 JOSEPH DICKINSON
12:52:55 2 you gave this affidavit, this
12:52:58 3 statement, whether you were approached
12:53:01 4 to obtain or create a floral pattern?
12:53:04 5 A. How about if we said we were
12:53:05 6 approached to obtain a sketch for a
12:53:08 7 floral pattern. Or obtain a floral
12:53:11 8 pattern. You know, the understanding
12:53:16 9 and the clear understanding at that
12:53:19 10 time would be to obtain would mean to
12:53:21 11 create and make a new pattern. And
12:53:24 12 there is a very -- there is an order of
12:53:27 13 events, it's not the only time we've
12:53:29 14 done it. And the way it's done is you
12:53:31 15 get a sketch, we've done it many times,
12:53:33 16 you get, sometimes you get twenty
12:53:36 17 sketches and you throw them all in the
12:53:37 18 garbage. But it's obtain or create.
12:53:40 19 Obtain means to obtain a floral
12:53:43 20 pattern. Obtain meant to obtain the
12:53:45 21 sketch. And that's what we did.
12:53:49 22 So again, should I have said
12:53:51 23 create, well, perhaps. But I think
12:53:54 24 that for purposes of understanding we
12:53:56 25 did obtain a floral pattern. And that

Page 134

1 JOSEPH DICKINSON
 14:51:13 2 much aware of the fact that -- I mean,
 14:51:16 3 look, the way I would explain it, they
 14:51:18 4 are already aware, I don't have to tell
 14:51:20 5 them that Linfalls is out of business.
 14:51:21 6 I think their only course of action at
 14:51:24 7 that time was to contact the original
 14:51:26 8 owner or partner, majority owner in
 14:51:29 9 Linfalls, which is Ozwind Fischbach of
 14:51:32 10 Deltex Mills. Again, it's never my
 14:51:36 11 role to orchestrate all this, you know,
 14:51:41 12 I have nothing to do with the lawsuit,
 14:51:42 13 I'm not gaining anything from it. I'm
 14:51:44 14 just here to present the facts as I
 14:51:46 15 know them. I didn't -- what's the need
 14:51:50 16 to, they don't have to call me to get a
 14:51:52 17 phone number or anything.
 14:51:54 18 Q. How do you account for the
 14:51:55 19 fact that your statement of September
 14:51:58 20 20, '05 and Mr. Fischbach's statement
 14:52:02 21 of September 20, '05 are identical?
 14:52:05 22 A. I have no knowledge of that.
 14:52:06 23 I can only say that I gave a statement,
 14:52:11 24 and that's it. My assumption would be
 14:52:14 25 that when they went to Ozwind and said

Page 135

1 JOSEPH DICKINSON
 14:52:17 2 are these the facts as you recall it,
 14:52:20 3 and I would assume he said yes, those
 14:52:22 4 are the facts and signed the paper. I
 14:52:24 5 don't know. But I don't know because
 14:52:26 6 I'm not -- I didn't participate in
 14:52:29 7 that. But I would assume that these
 14:52:32 8 are the facts, so Ozwind signed off on
 14:52:36 9 it. I don't know what else to say.
 14:52:37 10 Q. I want you to look with me
 14:52:40 11 at P 128. And do you see that she,
 14:52:48 12 Ms. Kramm, in this document declares
 14:52:51 13 that on or about September 15, 1998 I
 14:52:56 14 was commissioned to prepare a design in
 14:52:59 15 lace.
 14:52:59 16 Do you see that?
 14:53:00 17 A. Yes.
 14:53:00 18 Q. Do you know where that date
 14:53:01 19 came from?
 14:53:02 20 A. I think that's an
 14:53:04 21 approximate date as to when we put this
 14:53:08 22 thing together. I mean, you know, when
 14:53:10 23 you come to somebody -- you have to
 14:53:12 24 understand that we do, you know, dozens
 14:53:15 25 and dozens of laces every day and all

Page 136

1 JOSEPH DICKINSON
 14:53:18 2 day long. So if somebody comes to me
 14:53:20 3 and says, you know, you did this thing
 14:53:22 4 back in -- yeah, we did it back around
 14:53:25 5 September 15, 1998. Does that mean
 14:53:28 6 it's on that date, it's on or about.
 14:53:30 7 Q. Do you see that the date on
 14:53:36 8 the document Defendants' E is also
 14:53:39 9 September 15, 1998?
 14:53:41 10 A. Yes.
 14:53:41 11 Q. And do you know if you
 14:53:43 12 supplied the September 15, 1998 date to
 14:53:46 13 Ms. Kramm?
 14:53:47 14 A. No, I had no contact with
 14:53:49 15 her.
 14:53:49 16 Q. Just so there is no mystery
 14:53:52 17 here, I want to open up E and ask you
 14:53:55 18 to look and see if you see Ms. Kramm's
 14:53:58 19 initial on E.
 14:54:01 20 MS. WOLFF: On the draft?
 14:54:03 21 MR. LAZARUS: Yes.
 14:54:27 22 A. I don't see anything.
 14:54:28 23 Q. Let's turn it over. Do you
 14:54:35 24 see it anywhere on the reverse of E?
 14:54:37 25 A. No.

Page 137

1 JOSEPH DICKINSON
 14:54:38 2 MR. LAZARUS: Counsel, just
 14:54:40 3 to make the record clear, I do not see
 14:54:44 4 it. And unless you feel differently,
 14:54:48 5 you can show me where it is.
 14:54:55 6 MS. WOLFF: There is a lot
 14:54:56 7 of writings here on the edges,
 14:54:58 8 something 1630, some initials there, I
 14:55:01 9 don't know what that is. There is lots
 14:55:02 10 of extraneous writing, but again, this
 14:55:05 11 is a draft, not a sketch.
 14:55:18 12 Q. I want to look again in the
 14:55:22 13 materials that have been Bates stamped
 14:55:23 14 and marked as Paris Exhibit 1-A.
 14:55:40 15 Pattern 1717 was the original of what
 14:55:42 16 is now known as 1967 without a fill in
 14:55:45 17 one of the flowers; is that the correct
 14:55:47 18 terminology?
 14:55:48 19 A. Yeah, that's fair enough.
 14:55:51 20 Q. I want you to look at the
 14:56:10 21 document that is Bates stamped number
 14:56:11 22 Paris 53. And do you see that the
 14:56:13 23 earliest indication on this document is
 14:56:16 24 that 1717 was knit on September 4,
 14:56:19 25 1998?

Page 138

1 JOSEPH DICKINSON
 14:56:20 2 A. Yes.
 14:56:20 3 Q. And would you agree that
 14:56:22 4 September 4, 1998 is prior to September
 14:56:25 5 15, 1998?
 14:56:27 6 A. I would.
 14:56:28 7 Q. And do you know how it
 14:56:29 8 would be that the pattern is knit
 14:56:32 9 before Ms. Kramm created the artwork?
 14:56:34 10 A. Then we've got dates wrong
 14:56:38 11 here. Somebody's got a date
 14:56:43 12 mislabeled. Either this is wrong or
 14:56:44 13 the 9/15 date is wrong.
 14:56:46 14 Q. And that would mean that
 14:56:48 15 Mrs. Kramm's date is wrong as well?
 14:56:50 16 A. It says on or about. You
 14:56:51 17 were asking me the same thing and I
 14:56:53 18 said to you before, you know, you have
 14:56:56 19 to see it from my point of view. There
 14:56:58 20 is no sense for me to go back and say
 14:57:00 21 was it November 5th, was it November
 14:57:03 22 15th, was it September 4th, was it this
 14:57:06 23 and that, because I only know one
 14:57:08 24 thing, and I'm testifying that that's
 14:57:10 25 an original pattern, Yolanda did the

Page 139

1 JOSEPH DICKINSON
 14:57:13 2 sketch. If there is a day or a week or
 14:57:15 3 two weeks, you know, it is what it is.
 14:57:17 4 Q. Before you knit you have to
 14:57:18 5 buy gray goods; right?
 14:57:20 6 A. Yeah.
 14:57:20 7 Q. Before you knit you have to
 14:57:23 8 create and set the knitting machine;
 14:57:27 9 don't you?
 14:57:27 10 A. That's correct.
 14:57:28 11 Q. And you have to buy the
 14:57:29 12 lace?
 14:57:29 13 A. Um-hum.
 14:57:30 14 Q. Did you have -- did Paris
 14:57:33 15 Lace have the lace in-house to make the
 14:57:36 16 1717 when she was commissioned to do
 14:57:40 17 the artwork?
 14:57:41 18 A. 1717 is --
 14:57:43 19 Q. It's a yes or no.
 14:57:46 20 A. The answer is no, we don't
 14:57:47 21 have any inventory of a fabric that was
 14:57:50 22 not produced yet.
 14:57:51 23 Q. Well, did you have the gray
 14:57:54 24 goods or the yarn to knit when -- not
 14:58:01 25 you, did Linfalls have the knit, the

Page 140

1 JOSEPH DICKINSON
 14:58:03 2 raw materials necessary to knit 1717?
 14:58:08 3 A. Are we talking about raw
 14:58:10 4 materials, you mean the yarn?
 14:58:11 5 Q. Yes.
 14:58:12 6 A. Yarn is used in dozens of
 14:58:13 7 different fabrics, so they may or may
 14:58:16 8 not have.
 14:58:16 9 Q. You don't know?
 14:58:18 10 A. It's not, you know,
 14:58:21 11 relevant. Again, there is generic
 14:58:24 12 yarns used in here, I don't know if
 14:58:26 13 they had the yarn or they ordered it
 14:58:27 14 after.
 14:58:28 15 MR. LAFARRO: I HAVE NO
 14:58:28 16 further questions at this time.
 14:58:31 17 (Time noted: 3:00 p.m.)
 18
 19
 20
 21 JOSEPH DICKINSON
 22 Subscribed and sworn to before me
 23 this ____ day of ____, 2008.
 24
 25

Page 141

1 JOSEPH DICKINSON
 2 STATE OF NEW YORK)
 ss:
 3 COUNTY OF NEW YORK)
 4 I wish to make the following
 changes, for the following reasons:
 5
 6 PAGE LINE
 7 CHANGE _____
 REASON: _____
 8
 9 CHANGE _____
 REASON: _____
 10
 11 CHANGE _____
 REASON: _____
 12
 13 CHANGE _____
 REASON: _____
 14
 15 CHANGE _____
 REASON: _____
 16
 17 CHANGE _____
 REASON: _____
 18
 19 CHANGE _____
 REASON: _____
 20
 21 CHANGE _____
 REASON: _____
 22
 23 JOSEPH DICKINSON
 Subscribed and sworn to before me
 this ____ day of ____, 2008.
 24
 25

14:58:37 25